IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.4097 OF 2005

Shaikh Mohd. Yusuf Mohd. Yakub...Petitioners.
142, Bapu Khote,
Street, 3rd floor,
Room No.8,
Mumbai 400 003

V/s.

1. The State of Maharashtra
through its Principal Secretary,
Social Justice, Cultural
Affairs and Sports Department
Mantralaya, Mumbai- 400 032.

2.Divisional Caste Certificate
Scrutiny Committee,
Pune Division, Pune
having its office at
Sugandha Chambers,
Pangul Ali
Ganesh Peth, Pune.

3. Municipal Corporation of
Greater Mumbai, through its
Commissioner, having its office
at Mahapalika Marg,
Mumbai-400 001.

4. Sub-Divisional Officer, Satara
District Satara.

5. Mohd. Salim Siddiqui
Room No.8, 3rd floor, 142, Bapu
Khote Street, Mumbai 400 003.

6. Ahmed Dawood Solanki
Room No.19/20, 4th floor,
46-48, Kolsa Street, Kalaiwala,
Building, Mumbai 400 003.

7. Narendra Gohil, C/o.BJP
Shriniwas House, 94-96,
Chandanwadi, Mumbai- 400 002. ...Respondents.

Shri R.K.Mendadkar for the Petitioner.
Shri C.R.Sonawane, AGP for the State.
Shri A.J.Bhor for the Respondent no.3.

CORAM: A.P.SHAH &
J.H.BHATIA, JJ.
DATE : 8th July , 2005.

ORAL JUDGMENT: (Per J.H.Bhatia, J.)

1. **Rule.** Rule made returnable forthwith. The matter is taken up for final hearing immediately with consent of the learned counsels for both the parties.

2. The Petitioner, who is a Muslim by religion, claims to be a member of Shikalgar caste which is recognised as a Nomadic Tribe. On the basis of caste certificate issued by Sub Divisional Officer, Satara, he contested election to the Municipal Council, Satara from the reserved constituency for the schedule tribe and was elected. After election, the caste certificate produced by him was sent to the concerned scrutiny committee for verification. By the impugned order, the caste scrutiny committee cancelled the caste certificate issued by the Sub Divisional Officer. The said order is challenged in the present Petition.

3. Heard the learned counsel for both the parties. Perused the record and the impugned order.

4. Though the Petitioner claims to be an original resident of Satara, it appears that he was born and brought up and is carrying on business in Bombay. He secured caste certificate from Sub Divisional Officer on 31/12/01 and within 3 or 4 days prior to that he had collected some certificates to support his claim. One of such certificate was issued by Talathi, Satara on 27/12/01 showing that the Petitioner was resident of House No.124 at Malhar Peth , Satara and was residing there for 15 years. He had obtained another certificate from All India O.B.C. Organisation at Bombay on 31th December, 2001 to the effect that he belongs to the Shikalgar community. The Caste Scrutiny Committee has observed that in his affidavit filed in Suit No.851/00 before the Small Cause Court, Bombay, the Petitioner had stated that he is resident of Bombay since 1942. It is material to note that as per School Leaving Certificate issued by Mohamadiya High School, Bombay, the

Petitioner was born on 15/6/48 at Bombay and he had taken his education also at Bombay. These documents militate against the certificate issued by Talathi, Satara city to the effect that the Petitioner was resident of Satara for 15 years. This reveals that he had taken false certificate, shortly before obtaining caste certificate from Sub Divisional Officer.

5. The Caste Scrutiny Committee has rightly observed that the Petitioner could not produce any document issued prior to 2001 to show that he himself or his forefathers belong to Shikalgar community. He appears to have managed several statements only during an inquiry by the Vigilance Cell of the Scrutiny Committee. Having gone through the documents produced by him and material collected by the Vigilance Cell, we are satisfied that there is no reliable material to prove that the Petitioner belongs to the Shikalgar community which is a nomadic tribe. Therefore, we find that the Scrutiny Committee was justified in passing the impugned order, cancelling the caste certificate in his favour.

6. In the result, the Writ Petition stands dismissed.

(A.P.SHAH,J.)

(J.H.BHATIA,J.)